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MEMORANDUM

Public Hearing Date: June 28, 2010
Zoning and Planning Action Date: Sept. 13, 2010
Board of Aldermen Action Date: Sept. 20, 2010
90-Day Expiration Date: Sept. 26, 2010

DATE: June 25, 2010

TO: Alderman Marcia T. Johnson, Chairman, and
Members of the Zoning and Planning Committee

FROM: Candace Havens, Interim Director of Planning and Development
Juris Alksnitis, Interim Zoning Administrator

RE: **Petition #142-09(3), ZONING & PLANNING COMMITTEE proposing that subsection 30-15(u) of Chapter 30** relative to floor area ratio, as established by Ordinance Z-51, dated August 10, 2009, be amended by extending the provisions of paragraph nos. 1. 2. and 3. from July 30, 2010 up to December 31, 2010.

CC: Board of Aldermen
Planning and Development Board
John Lojek, Commissioner of Inspectional Services
Marie Lawlor, Assistant City Solicitor

The purpose of this memorandum is to provide the Board of Aldermen, Planning and Development Board, and the public with technical information and planning analysis which may be useful in the decision making process of the Board. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Zoning and Planning Committee of the Board of Aldermen will consider in its discussion at a subsequent Working Session.

BACKGROUND

On March 16, 2009, the City adopted Ordinance Z-44 eliminating Footnote 7 from Table 1, *Density & Dimensional Controls in Residence Districts and for Residential Use*, a key table within the Zoning Ordinances. This footnote contained multiple subsections affecting Floor Area Ratio (FAR), including the well-known "50% demolition" loophole. While this action eliminated the provision whereby residential redevelopment or rehabilitation involving large additions could qualify for unlimited FAR, small "bump-outs" and "mudroom" additions were also precluded.

In the process of responding to concerns raised by a number of residents, the Zoning and Planning Committee undertook to review FAR provisions overall while also working on ways to provide relief for modest additions. The latter was addressed by Ordinance Z-51, August 10, 2009, which also clarified FAR-related Footnotes 5 and 6 and relocated these provisions into the new subsection 30-15(u) of the Zoning Ordinance. However, the FAR relief mechanisms were also made subject to a time limit ending July 30, 2010, pending further study.

Concurrently, the overall FAR issue was addressed by appointing the FAR Working Group in June 2009, to study FAR in Newton and to propose amendments to the Zoning Ordinance.

The Working Group completed its work and issued the *FAR Working Group Final Report*, May 2010, which was presented and discussed at the ZAP meeting on May 24, 2010.

PETITION #142-09(3) – Proposal to extend current "sunset" dates.

This petition seeks to amend the existing July 30, 2010 "sunset" dates pertaining to the FAR "bonus" measures contained in subsection 30-15(u), paragraphs 1, 2, and 3, respectively. Petition #142-09(3) proposes to extend the date within each subject paragraph to December 31, 2010.

- Paragraph 1 provides "as-of-right" additional FAR of up to .05 above Table 1 values for existing SF and 2F homes at least 10 years old for owners seeking modest additions.
- Paragraph 2 provides "as-of-right" additional FAR of up to .07 above Table 1 values for existing SF and 2F homes on pre-1953 lots meeting paragraph 1 requirements and also meeting post-1953 setback requirements or not building closer to the lot line than the existing structure.
- Paragraph 3 provides "as-of-right" additional FAR of up to .05 above Table 1 values for new SF and 2F homes at time of initial construction on pre-1953 lots provided post-1953 setback and lot coverage requirements along with pre-1953 open space requirements are met.

DISCUSSION

The Planning and Development Department supports the proposed time extensions, which will facilitate review of the utility of these provisions. During this time period, it is suggested that as of July 1, 2010, the Inspectional Services Department (ISD) flag building permits and cases which are reviewed for additional FAR under subsection 30-15(u), paragraphs 1, 2, and 3. This would enable the ISD to provide a report to the Board of Aldermen with information such as the frequency of these "bump-out" cases including location, zone, type of residence, and type of

FAR relief, along with the amount of additional gross floor area declined or granted and character of the work involved.

In addition, the FAR Working Group recommended in its *Final Report* that the City undertake a data gathering period during which FAR calculations are done on upcoming building permits utilizing two methods in tandem, i.e. the current system and the proposed system. This would allow the comparison of FAR outcomes under existing provisions with potential outcomes under the suggested new FAR tables. The proposed time extension would make it possible for ISD undertake the dual-calculation suggestion of the FAR Working Group, and report results and impacts to the Board of Aldermen prior to adoption of a new FAR approach and structure.

RECOMMENDATIONS

The Planning and Development Department recommends that the Board of Aldermen:

- Approve the time extensions through December 31, 2010, and if possible through January 31, 2011 to allow for bridging over the holiday season.
- Request the Inspectional Services Department to track and report on cases reviewed for consideration under subsection 30-15(u), paragraphs 1, 2, and 3, as discussed above.
- Request the Inspectional Services Department to undertake dual FAR calculations as suggested by the FAR Working Group, and report results and impacts as discussed above.
- Consider information obtained during the interim period in final deliberations pertaining to possible alteration of the existing FAR approach and system.